IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE M.H.S. ANSARI

AND
THE HON'BLE SRI JUSTICE E.DHARMA RAO

WRIT PETITION No.24217 of 2004

Between:

M/s Jyothi Off-set Printers Kothapeta, Chirala,
rep. by its Proprietor,
Sri Dasari Venkata Ramesh.

..... PETITIONER

AND

1.The Additional Commissioner (CT) Legal (FAC),

O/o. the Commissioner of Commercial Taxes
Andhra Pradesh, Hyderabad.
2.The Deputy Commissioner (CT), Nellore.
3.Commercial Tax Officer, Chirala.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue writ, order or direction, more particularly in the nature of writ of Mandamus, declaring the action of the 1st respondent in so far as refusal to grant stay, pending disposal of the appeal before the Sales Tax Appellate Tribunal, Hyderabad, is illegal, arbitrary and accordingly set aside the order of the 1st respondent in LV(1)/3059/2004, dt.25.11.2004 and interdict the respondents from collecting the disputed sales-tax in pursuance of the order of the Deputy Commissioner (CT), Nellore RV.No.91/03-04/A6 G.I No.4454/00-01, dt.12.8.2004 until disposal of the appeal preferred against it by the Sales Tax Appellate Tribunal in A.R.No.1946/2004.

Counsel for the Petitioner: Mr.S.CHAKRAPANI

Counsel for the Respondents: G.P. FOR COMMERCIAL TAXES

The Court made the following :

ORAL ORDER: (per Hon'ble Sri Justice M.H.S.Ansari)

Keeping in view the nature of relief prayed for in the instant writ petition, we are inclined to dispose of the same at this stage with certain appropriate directions.

The petitioner has questioned the order of the learned Additional Commissioner dated 25-11-2004 whereby the prayer of the petitioner for stay of collection of tax pending disposal of the appeal before the Sales Tax Appellate Tribunal (STAT) has been rejected. The stay application filed by the petitioner was in respect of the two appeals pertaining to the assessment years 2000-01 and 2001-02.

In such view of the matter, the instant writ petition is being disposed of with a direction that if the petitioner deposits 50% of the tax in dispute which is subject matter of the respective appeals for the assessment years 2000-01 and 2001-02, the learned STAT shall hear and dispose of the appeals on their own merits without insisting upon the petitioner to deposit the balance disputed tax.

It is hereby clarified that 50% of the deposit hereby directed to be made as above for each of the respective assessment years shall be paid by the petitioner within four weeks from date giving credit to the amounts already paid by it.

The writ petition accordingly stands disposed of in terms as above.

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(M.H.S.ANSARI, J.)

27th December 2004.

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(E.DHARMA RAO, J.)

Note: Issue copy on priority basis.

ARS

To

1.The Additional Commissioner (CT) Legal (FAC), O/o. the Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad.
2.The Deputy Commissioner (CT), Nellore.
3.The Commercial Tax Officer, Chirala.

4. Two CCs to Govt. Pleader for Commercial Taxes, High Court Bldgs., Hyderabad (OUT).

5. Two CD copies.